

# HOUSE BILL No. 5717

May 3, 1990, Introduced by Reps. Willis Bullard, Bartnik, Dolan, Miller, Martin, London, Crandall, Strand, Bandstra, Oxender, Trim, Bender, Sparks, Runco, Johnson, Krause, Gilmer, Bankes, Giese, O'Connor, Middaugh, Kulchitsky, Bryant, Hoffman, Weeks, Hart, Rocca, Walberg, Nye, Stacey, Jaye, Van Regenmorter and Law and referred to the Committee on Taxation.

A bill to amend Act No. 122 of the Public Acts of 1941,  
entitled as amended

"An act to establish a revenue division of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer; to create the position and to define the powers and duties of the state commissioner of revenue; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to provide an appropriation; to abolish the state board of tax administration; and to declare the effect of this act,"

as amended, being sections 205.1 to 205.31 of the Michigan Compiled Laws, by adding sections 24a and 29a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. Act No. 122 of the Public Acts of 1941, as  
2 amended, being sections 205.1 to 205.31 of the Michigan Compiled

1 Laws, is amended by adding sections 24a and 29a to read as  
2 follows:

3       SEC. 24A. IF THE DEPARTMENT DETERMINES THAT INSTALLMENT  
4 PAYMENTS WOULD FACILITATE COLLECTION OF A TAX LIABILITY OR THAT  
5 IMMEDIATE PAYMENT IN FULL WOULD CAUSE A PERSON HARDSHIP, THE  
6 DEPARTMENT SHALL ENTER INTO A WRITTEN AGREEMENT WITH A PERSON  
7 THAT OWES A TAX TO ALLOW THE PERSON TO PAY THE TAX IN  
8 INSTALLMENTS. THE DEPARTMENT MAY TERMINATE AN AGREEMENT ENTERED  
9 INTO UNDER THIS SECTION IF ANY OF THE FOLLOWING OCCUR:

10       (A) THE COMMISSIONER DETERMINES ANY OF THE FOLLOWING:

11       (i) THAT THE PERSON PROVIDED, BEFORE THE DATE OF THE AGREE-  
12 MENT, INACCURATE OR INCOMPLETE INFORMATION.

13       (ii) THAT THE PERSON'S FINANCIAL CONDITION HAS SIGNIFICANTLY  
14 CHANGED IN A MANNER THAT JUSTIFIES ALTERING OR TERMINATING THE  
15 AGREEMENT.

16       (iii) THAT COLLECTION OF THE TAX SUBJECT TO THE AGREEMENT IS  
17 IN JEOPARDY.

18       (B) THE PERSON FAILS TO DO ANY OF THE FOLLOWING:

19       (i) PAY AN INSTALLMENT WHEN DUE.

20       (ii) PAY ANOTHER TAX LIABILITY OWED TO THE STATE.

21       (iii) PROVIDE THE DEPARTMENT WITH A FINANCIAL CONDITION  
22 UPDATE AS REQUIRED BY THE DEPARTMENT.

23       SEC. 29A. (1) THE DEPARTMENT SHALL RELEASE A LIEN IMPOSED  
24 UNDER SECTION 29 UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

25       (A) THE LIABILITY UPON WHICH THE LIEN IS BASED IS SATISFIED  
26 OR BECOMES UNENFORCEABLE.

1 (B) THE RELEASE FACILITATES COLLECTION OF THE TAX.

2 (C) UNLESS THE AGREEMENT PROVIDES OTHERWISE OR RELEASE OF  
3 THE LIEN JEOPARDIZES THE SECURED CREDITOR STATUS OF THE STATE,  
4 THE DEPARTMENT AND PERSON OWING THE TAX ENTER INTO AN AGREEMENT  
5 FOR INSTALLMENT PAYMENTS UNDER SECTION 24A.

6 (D) THE COMMISSIONER DETERMINES THAT THE LIEN CREATES AN  
7 ECONOMIC HARDSHIP DUE TO THE FINANCIAL CONDITION OF THE PERSON.

8 (E) THE FAIR MARKET VALUE OF THE PROPERTY EXCEEDS THE TAX  
9 LIABILITY AND RELEASE OF THE LIEN ON PART OF THE PROPERTY MAY BE  
10 MADE WITHOUT HINDERING THE COLLECTION OF THE TAX.

11 (2) IF THE LIEN IS ON TANGIBLE PERSONAL PROPERTY ESSENTIAL  
12 TO THE PERSON'S TRADE OR BUSINESS AND THE LIEN PREVENTS THE  
13 PERSON FROM CARRYING ON THE TRADE OR BUSINESS, THE DEPARTMENT  
14 SHALL EXPEDITE ITS DETERMINATION UNDER SUBSECTION (1).

15 (3) THE RELEASE OF A LIEN UNDER THIS ACT DOES NOT PREVENT A  
16 SUBSEQUENT LEVY UNDER THIS ACT AGAINST THE SAME PROPERTY.

17 (4) IF THE DEPARTMENT KNOWINGLY OR NEGLIGENTLY FAILS TO  
18 RELEASE A LIEN AS PROVIDED IN THIS SECTION, THE PERSON ON WHOSE  
19 PROPERTY THE LIEN IS IMPOSED MAY BRING AN ACTION FOR DAMAGES  
20 AGAINST THE STATE. IF THE COURT FINDS THE DEPARTMENT LIABLE  
21 UNDER THIS SUBSECTION, THE COURT MAY AWARD THE PERSON THE ACTUAL,  
22 DIRECT ECONOMIC DAMAGES CAUSED BY THE DEPARTMENT'S ACTION OR  
23 INACTION PLUS THE COSTS OF THE ACTION. THE COURT SHALL NOT  
24 ENTERTAIN AN ACTION UNDER THIS SUBSECTION UNLESS THE PERSON HAS  
25 EXHAUSTED THE ADMINISTRATIVE REMEDIES AVAILABLE WITHIN THE  
26 DEPARTMENT. A PERSON SHALL NOT BRING AN ACTION UNDER THIS  
27 SUBSECTION AFTER 2 YEARS AFTER THE RIGHT OF ACTION ACCRUES.